

REMARKS

Applicants respectfully request favorable reconsideration of this application, as amended.

As a preliminary matter, the Applicants acknowledge with appreciation the courtesies extended to Applicants' representatives during the interview conducted on January 6, 2009. During the interview, the rejections under 35 USC §§ 101, 112 and 103 were discussed. In particular, the features set forth in independent Claim 26 were discussed and contrasted with the invention of Turek in view of Jung and Anerousis.

Applicants hereby state that the substance of the Interview is accurately reflected herein. Applicants further respectfully submit that the claims as presented herein, being amended as discussed in the Interview, are directed to allowable subject matter; otherwise, Applicants hereby state that the substance of the Interview is also accurately reflected in the Examiner's Summary Record dated January 13, 2009.

As will be discussed below in greater detail with regard to the alleged indefiniteness rejections, Applicants decline to automatically subscribe to any of the Office Action's definitions or characterizations (e.g., on pages 3 or 7).

Claims 26-45 are pending, with Claims 26 and 36 being independent. By this Amendment, Claim 26 has been amended to recite certain distinctive features of Applicants' invention with greater particularity and to address the alleged informalities in Claim 26. Support for the amendments to Claim 26 can be found in Applicants' Substitute Specification at, for example, page 8, lines 11-15, page 9, lines 20-25, page 10, lines 1-2, page 17, lines 20-25, page 18, lines 1-23, and page 19, lines 1-22. Claims 27-31 have also been amended for consistency. New Claims 36-45 have been added to provide more comprehensive protection for Applicant's invention. Claims 1-25 were previously cancelled without prejudice or disclaimer.

In the outstanding Office Action, Claims 26-35 were rejected under 35 U.S.C. §101 as allegedly being directed to a non-statutory subject matter; under 35 U.S.C. §112, second paragraph, as allegedly being indefinite; and under 35 U.S.C. §103(a) as allegedly being unpatentable over Turek in view of Jung and Anerousis.

Regarding the rejection under 35 U.S.C. §101, Applicants believe that the amendments made to Claim 26 overcome this rejection. Claim 26 now recites, *inter alia*, a deployment device including a computer readable medium upon which is encoded a sequence of instructions, which when executed by the computer, causes the deployment device to establish distributed monitoring of the computer system.

Therefore, Applicants respectfully submit that Claim 26 is directed to statutory subject matter, and respectfully request that the rejection under 35 U.S.C. §101 be withdrawn.

Regarding the rejection of Claim 26 under 35 U.S.C. §112, Claim 26 now recites, *inter alia*, a plurality of indicator agents each configured to evaluate an indicator comprising a value characterizing a status or an operation of one or more resources of the computer system and an indicator-defining function for determining said value by searching through object identifiers and instantiating associated variables using a network management protocol. Applicants note that the Substitute Specification clearly discloses these features at, for example, page 17, lines 15-25 and page 18, lines 1-20, and pages 19-20.

Thus, contrary to the Office Action, the indicator-defining function is clearly disclosed in the Substitute Specification, and thus, the proper metes and bounds of the claim as regarding the value and the function used to calculate the value can be clearly ascertained.

Accordingly, Applicants respectfully submit that Claim 26 particularly points out and distinctly claims the subject matter recited therein. Withdrawal of the rejection is therefore, respectfully requested.

Turning to the rejections under 35 U.S.C. §103(a), without acceding thereto, independent Claim 26 has been amended to recite certain distinctive features of Applicants' invention with greater particularity, as noted above. For example, as now set forth in Claim 26, the deployment device comprises, *inter alia*, a plurality of indicator agents each configured to evaluate an indicator comprising a value characterizing a status or an operation of one or more resources of the computer system and an indicator-defining function for determining said value by searching through object identifiers and instantiating associated variables using a network management protocol.

It is apparent that the applied references fail to teach or suggest at least this feature. For example, the Office Action relies on Turek to show a plurality of indicator agents that evaluate indicators, each indicator characterizing a status or the operation of one or more resources of the computer system. *See* Office Action, page 9. However, Turek merely discloses generating software "agents" useful in diagnosing network events. *See* Turek, Column 2, lines 37-41, and Column 7, lines 49-57. Assuming *arguendo* that Turek's software "agents" are similar to the claimed indicator agents, there is no teaching or suggestion in Turek of indicators evaluated by the plurality of indicator agents, the indicators comprising a value characterizing a status or an operation of one or more resources of the computer system and an indicator-defining function to determine the value, as recited in Claim 26.

Additionally, Claim 26 also recites a deployment device which includes, *inter alia*, writing means associated with each indicator agent, each writing means being configured to write in an associated subscriber list, upon receiving a subscription

notification from at least one other indicator agent, an identification and management information of the at least one other indicator agent, and the subscriber list is managed by the associated indicator agent and stored using storage means of the resource associated with the indicator agent. It is apparent that the applied references also fail to teach or suggest this combination of features.

For example, the Office Action acknowledges, at pages 9-10, that Turek fails to disclose the features discussed above, and does not allege that Anerousis discloses the features of Claim 26. However, the Office Action alleges that Jung cures Turek's and Anerousis' deficiencies.

It is apparent, however, that Jung does not teach or suggest that each writing means writes in the associated subscriber list an identification and management information of the at least one other indicator agent, as recited in Claim 26. For example, Jung discloses a control mechanism 55 that propagates changes in the attributes of a cell to other cells that observe that cell. However, it is apparent that the control mechanism of Jung, after it propagates the change to all the observer cells, updates the state of the observed as well as the observer cells (*See* Jung, Fig.7). As such, Jung's writing means, (assuming arguendo that writing means is present in the Jung's system), merely updates the attributes of the affected cells. Therefore, Jung fails to fails to teach or suggest writing in the associated subscriber list an identification and management information of the at least one other indicator agent from which the associated indicator agent received the subscription notification, as recited in Claim 26.

Anerousis apparently fails to cure the above-noted deficiencies of Turek and Jung, nor does the Office Action rely on Anerousis for such teachings.

Accordingly, Claim 26 is believed to distinguish patentably from the applied references.

Independent Claim 36 also discloses, *inter alia*, a plurality of indicator agents each configured to evaluate an indicator comprising a value characterizing a status or an operation of one or more resources of the computer system and an indicator-defining function for determining said value by searching through object identifiers and instantiating associated variables using a network management protocol, as well as writing means associated with each indicator agent, each writing means being configured to write in an associated subscriber list, upon receiving a subscription notification from at least one other indicator agent, an identification and management information of the at least one other indicator agent, and the subscriber list is managed by the associated indicator agent and stored using storage means of the resource associated with the indicator agent.

Therefore, Claim 36 is also believed to patentably distinguish from the applied references for at least the reasons discussed above with respect to Claim 26.

Claims 27-35 and 37-45 are also believed to be patentable based on their dependence from Claims 26 and 36, respectively, as well as due to the additional subject matter recited in Claims 27-35 and 37-45.

In view of the foregoing, a prompt Notice of Allowance is respectfully solicited.

Should the Examiner believe that any further action is necessary to place this application in better form for allowance, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T2147-906756) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

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